

EXHIBIT P

Page 1

1 UNITED STATES DISTRICT COURT
2 NORTHERN DISTRICT OF GEORGIA
3 ATLANTA DIVISION
4 ALPHA PHI ALPHA)
5 FRATERNITY, INC., a)
6 nonprofit organization on)
7 behalf of members)
8 residing in Georgia;) CASE NO.
9 SIXTH DISTRICT OF THE) 1:21-CV-05337-SCJ
10 AFRICAN METHODIST)
11 EPISCOPAL CHURCH, a)
12 Georgia nonprofit)
13 organization; ERIC T.)
14 WOODS; KATIE BAILEY)
15 GLENN; PHIL BROWN and)
16 JANICE STEWART,)
17 Plaintiffs,)
18 vs.)
19 BRAD RAFFENSPERGER, in)
20 his official capacity as)
21 Secretary of State of)
22 Georgia,)
23 Defendant.)
24
25

VIDEOTAPED DEPOSITION OF JOHN B. MORGAN
(Taken by Plaintiffs)

February 9, 2023
9:40 a.m.

Suite 200
1600 Parkwood Circle
Atlanta, Georgia

Reported by: Debra M. Druzisky, CCR-B-1848

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1 the report I discuss a process of map drawing which
2 can be applied to other circumstances.

3 Q. Do you conclude in your December 5th
4 report that the illustrative maps that you drew are
5 evidence that the illustrative maps drawn by
6 Mr. Cooper don't comply with traditional
7 districting principles?

8 A. That's not in the report.

9 Q. So let's actually crack open this report
10 and take a look at it, starting with Paragraph 4
11 and 5. Actually, we can go right to Paragraph 5.
12 You say you set out "to draw a blind plan that did
13 not consider race or incumbency or past
14 redistricting plans for Georgia."

15 Do I have that right?

16 A. Yes.

17 Q. Okay. Did someone ask you to do that?

18 A. I would say that I was asked to do
19 something like that. I would say that, you know,
20 in order to make some comparisons, that I was asked
21 to draw a plan like that, yes.

22 Q. Were you asked to draw a plan specifically
23 with those parameters in terms of not considering
24 those three things?

25 A. That's what it ended up being.

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1 actual boundaries.

2 But again, I might generally know there's,
3 you know, about four districts in this area, so
4 whatever the legislature did and whatever I did is
5 going to have about four districts in an area.

6 Q. You mentioned you're -- you know, been to
7 half the counties in Georgia and you have
8 significant sort of background knowledge and
9 awareness of Georgia's demographics.

10 Am I correctly characterizing what you
11 said?

12 A. Yes. When I met with the eight
13 congressmen in 2001 when they were drawing -- the
14 Republican congressmen when they were drawing
15 districts, they respected my opinions.

16 Q. So you know sort of which areas have large
17 black populations?

18 A. Generally, yes.

19 Q. Okay. And when you drew your map, did you
20 consider whether black voters would be able to
21 elect candidates of choice under the lines that you
22 drew?

23 A. I didn't analyze that. I specifically
24 treated every district the same way. So I didn't
25 make any analysis in the areas where I knew there

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1 was black population. I applied the same process
2 that I did in areas where there -- I knew there was
3 not a lot of black population.

4 Q. So you did not consider whether black
5 voters would be able to elect candidates of choice
6 in --

7 A. Not --

8 Q. -- those areas?

9 A. Not in this report, no.

10 Q. Have you ever used these, again, adopting
11 your term, blind parameters before in drawing an
12 illustrative map or in any map?

13 A. I've seen them used before, yes.

14 Q. Where have you seen them used?

15 A. North Carolina, Arizona specifically.

16 Q. In what context?

17 A. In the early stages of map drawing,
18 there's a lot of maps that are done that pair
19 counties in a certain way.

20 Or in the case of Arizona, my
21 understanding is that the process begins with a map
22 drawn by map drawers that is then turned over to
23 the commission.

24 So somebody drew that plan and they turned
25 it over to the commission, and the commission

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1 Q. Sure.

2 A. Okay.

3 THE VIDEOGRAPHER: Off the video
4 record at 12:11 p.m.

5 (Whereupon, a discussion ensued
6 off the record.)

7 (Whereupon, there was a luncheon
8 recess.)

9 (Whereupon, Ms. LaRoss did not
10 return to the deposition.)

11 THE VIDEOGRAPHER: Back on the video
12 record at 12:53 p.m.

13 BY MR. SAVITZKY:

14 Q. All right. Hello again, Mr. Morgan.

15 A. Hello.

16 Q. So we were talking about some of the
17 different communities of interest definitions and
18 whether and how you considered them in your
19 illustrative map that you drew for the December 5th
20 report.

21 Did you consider socio-economic
22 commonalities when you created your illustrative
23 maps?

24 A. Generally, I would say no. These were
25 examples of what people may consider communities of

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1 A. No. I wasn't given information on the
2 public hearing process.

3 Q. Okay. So and just to summarize, in terms
4 of considering communities of interest, other than
5 looking at municipalities and places on the map and
6 whatever background knowledge you might have had,
7 were those the two ways that you considered
8 communities of interest?

9 A. I mean, there were others that I
10 mentioned. I mentioned mountains and other
11 geographical features that were not simply
12 municipalities.

13 Q. Other than considering the features that
14 you could view on the map and whatever background
15 knowledge you were bringing to the table, were
16 there any other ways that you considered
17 communities of interest in constructing your
18 illustrative maps for the December 5th report?

19 A. I would say it was mostly based on the
20 geography and the maps.

21 Q. When you say "mostly" --

22 A. Yes.

23 Q. -- were there other things that you
24 considered other than the geography and your
25 background knowledge?

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1 Q. Recognizing that one requirement is that
2 all plans comply with Section 2 of the Voting
3 Rights Act, would you say that your plan complies
4 with the guidelines?

5 MR. TYSON: I'll object to form.

6 THE WITNESS: I don't know how to
7 determine compliance in that regard.

8 BY MR. SAVITZKY:

9 Q. So let's look at Paragraph 28 here. And
10 you have this region one analysis starting in
11 Paragraph 28. You say:

12 "Region one consists primarily of
13 DeKalb, Clayton, Henry, Rockdale,
14 Newton and Walton Counties."

15 Can you describe, like, what are the exact
16 parameters of this region that you've defined here?

17 A. I just defined it.

18 Q. Well, you say primarily, so what do you
19 mean by "primarily"?

20 A. Well, if you look at the next page,
21 there's a map, and most of the districts cover all
22 of the territory of DeKalb, Clayton, Henry, Newton,
23 Rockdale and Walton.

24 Q. So is the region that you're talking about
25 defined by the districts that you selected?

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1 the districts -- the group of districts that you
2 assessed for enacted region one and the group of
3 districts you assessed for illustrative region one?

4 A. No.

5 Q. Is there any empirical basis for choosing
6 this particular set of districts?

7 A. Well, they cover pretty close to the same
8 geographic area.

9 Q. So it's just rough, rough geographic area
10 in the counties you've selected?

11 A. Well, let's see. In this case all of
12 DeKalb County is accounted for, all of Clayton,
13 most of Henry, all of Rockdale. In the case of the
14 enacted plan, all of Walton but not Newton and not
15 Henry. And in the other case, it's only missing a
16 portion of Walton.

17 So it could be that, looking at the
18 illustrative plan and establishing that coverage,
19 and then looking at the enacted plan and looking at
20 the same relative coverage area, and those are the
21 districts that overlap.

22 Q. Do you know the overall demographics of
23 the set of counties that you chose?

24 A. In what sense?

25 Q. Do you know the racial demographics of the

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1 A. No. I listed the individual compactness
2 scores of all of the districts.

3 Q. Okay. And that's what you're referring to
4 when you talk about the contrast in compactness?

5 A. In general, yes.

6 Q. And then you say "There may be many
7 causes" for why the regions are so different. Do
8 you still agree with that?

9 A. I'm sure there could be.

10 Q. You mean -- do you mean that there may be
11 many causes for why -- well, sorry. Strike that.

12 What are some of the many causes that
13 you're referring to here?

14 A. I didn't identify them.

15 Q. Are you able to identify them now?

16 A. I didn't look at that in this report.

17 Q. Could one of those causes be avoiding
18 pairing incumbents?

19 A. I suppose.

20 Q. Could one of those causes be retaining
21 district corridors and continuity of
22 representation?

23 A. That's possible.

24 Q. Could one of those causes be various
25 community of interest factors that weren't

1 considered?

2 A. I suppose so.

3 Q. Could one of those causes be constituent
4 feedback during the constituent sessions in the
5 redistricting process?

6 A. That's possible, I suppose.

7 Q. Could one of them be compliance with the
8 Voting Rights Act?

9 A. I suppose that's possible.

10 Q. Could one cause be the individual
11 balancing decisions of different map drawers?

12 A. I suppose so. There's many possibilities,
13 I'm sure.

14 Q. So in Paragraph 30 starting on 22, you
15 say:

16 "Looking at some specific
17 districts shows that the compactness
18 of those districts is lowered by
19 apparent effort to create more
20 majority black districts."

21 And then you look at one set of districts,
22 you compare one set, your illustrative 90 versus
23 enacted house District 89. And you say that the
24 enacted district is more elongated but your
25 district is more compact.

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1 districts. I mean, I think there were fewer in
2 this region than the previous region, but not by
3 much.

4 Q. Did you do any core constituency analysis
5 to determine the precise overlap between the set of
6 districts in your illustrative region two and the
7 enacted region two?

8 A. No. I did not compare the core
9 constituency between these two plans, but I suppose
10 that's something that could be done.

11 Q. So looking at Paragraph 32 of your report,
12 you again say, you say:

13 [As read] "...the maps in region
14 two show a contrast between the
15 illustrative and the enacted plan with
16 respect to compactness."

17 Is that a fair statement of your
18 assessment of these two maps?

19 A. I think that's pretty close to what I said
20 in the report, yes.

21 Q. And then you say there may be many causes
22 for the differences one sees between the enacted
23 and the illustrative map that you draw; right?

24 A. Yeah.

25 Q. Could one of those causes be avoiding

1 A. Uh-huh.

2 Q. Did you look at any other individual
3 head-to-head comparisons or just District 59 for
4 region two?

5 A. Well, I mean, there's a chart. You can
6 look at them here. They're all here. I reported
7 the information on all of the districts that are in
8 the region as defined.

9 Q. Did you discuss any other head-to-head
10 comparisons in your report?

11 A. No. The report verbally describes what's
12 in the table in one instance.

13 Q. Do you know how much District 59 in your
14 illustrative map and District 59 in the enacted map
15 overlap with each other?

16 A. In what sense?

17 Q. Do you know what their geographic and
18 population overlap is?

19 A. No. I said I did not run the core
20 constituency comparisons.

21 Q. Do you know whether they are the most
22 alike districts when it comes to core
23 constituencies, whether there's a better comparison
24 that could have been made?

25 A. A better comparison?

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1 Q. One that more accurately reflects the
2 population.

3 A. I'm not sure I understand.

4 Q. My question is, is -- are 59 and 59 the
5 right comparators or is there another set of
6 comparators that overlap more tightly?

7 A. There's 25 or 26 districts. You can
8 compare any one of them.

9 Q. In your view you can compare any of these
10 districts?

11 A. No. I chose ones that were in the same
12 general area.

13 Q. You chose ones in the same general area
14 with --

15 A. Same geographic area, yeah. I, as I said,
16 I didn't run the constituency comparison reports.
17 I suppose I could have done that.

18 Q. Okay. Do you know whether enacted
19 District 59 was drawn the way it was in order to
20 avoid pairing incumbents?

21 A. No.

22 Q. Do you know how many incumbents you pair
23 in your map in Fulton County?

24 A. No.

25 Q. You say drawing a more compact district in

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1 Q. Is that right?

2 A. Yeah.

3 Q. Okay. Compactness score of 55 in your
4 plan is point 32 and point 34?

5 A. Yeah.

6 Q. Compactness of District 55 in the enacted
7 plan is point 34 and point 37?

8 A. I wasn't comparing those, but okay.

9 Q. You weren't comparing those?

10 A. I think the one I'm pointing to here is
11 District 10 in the enacted plan.

12 Q. Oh. I'm sorry. So you compared District
13 55 in the illustrative plan to District 10?

14 A. Yeah.

15 Q. Okay.

16 A. And I said it's an -- they're both
17 anchored in southern DeKalb, and District 10 goes
18 south into Henry whereas District 55 is entirely in
19 southern DeKalb. And that's a contrast.

20 And I think you can see that in the
21 enacted plan, southern DeKalb is parcelled out into
22 several districts. Whereas, in the illustrative
23 plan it's basically in three.

24 Q. Did you do any core constituency report to
25 determine which district most overlaps with

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1 illustrative District 55 in your illustrative map?

2 A. Boy, that, I think that would be a little
3 difficult. Because it's so fractionalized in the
4 enacted plan. I suppose one might be more than
5 another.

6 Q. So District 55 in the enacted plan could
7 have more of the population of District 55 than the
8 illustrative plan?

9 A. Yeah, I don't know. It's really
10 fractionalized in the enacted plan. I'd have to
11 look at that carefully.

12 Q. And just --

13 A. And I don't know that that's -- like,
14 which one do you pick? It's hard to say.

15 Q. Well, you picked the one with the lower
16 compactness scores, but District 55 in the enacted
17 plan actually has a higher Reock score than
18 District 55 in your illustrative plan; right?

19 A. Yeah. And I don't know that there's a
20 great deal of overlap, but maybe there is.

21 I mean, and again, it's so fractionalized
22 that, you know, if you were to take District 55 in
23 my illustrative plan, you know, you might have
24 20 percent in one and, you know, 25 percent in
25 another.

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1 way in, like, a numerical quantitative sense.

2 Q. Is the claimed effect from racial
3 considerations greater than the effect of taking
4 into account constituent feedback from the
5 redistricting process?

6 A. I think that would be difficult to
7 analyze, so I don't know.

8 Q. Did you come to a conclusion about which
9 of these different factors had more or less of an
10 effect --

11 A. No, I --

12 Q. -- than the enacted?

13 A. I didn't intend to discuss that, and I
14 don't think I did. I said that the racial
15 considerations had an effect. I think there's --
16 this clearly indicates there's a tendency and
17 there's an effect.

18 Q. So your conclusion of an effect from
19 racial considerations is based on comparing the
20 maps enacted by the State of Georgia and the plan
21 that you put together?

22 A. Yeah. And what -- in reviewing the
23 enacted plans combined with drawing -- I think
24 having the plan, the illustrative plan that I drew
25 is useful as a comparison tool.

1 of traditional districting factors?

2 A. Well, I didn't specify that here. But if
3 we look through the analysis, there's many pieces
4 to the analysis, so individual pieces support that
5 conclusion.

6 And so as a whole, yes, I think that's the
7 case. It's, in that sense, it's a holistic
8 analysis.

9 Q. What do you mean when you say that the
10 Cooper plans are focused on race? What does that
11 mean?

12 A. I -- I would say that there are many
13 examples that I discuss in my report that show that
14 race was a focus, very much so.

15 Q. Does it mean something other than being
16 aware of race?

17 A. Yeah, I think so.

18 Q. What? What does it mean other than being
19 aware of race?

20 A. I would say that there are instances that
21 I discuss in the report where steps are taken in
22 the drawing of the plan that prioritize race, not
23 just being aware of it, that there are actions I
24 see that show that the focus of certain areas was a
25 racial focus.

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1 Q. Does it mean something other than
2 complying with the Voting Rights Act?

3 A. I don't know that complying with the
4 Voting Rights Act is well defined here or -- I
5 don't know how to answer that. Like, the
6 compliance is a separate question. I think there
7 are many ways that could be considered compliance
8 in my experience.

9 Q. Is your opinion that the Cooper plans are
10 too focused on race?

11 A. When you say "too focused," there's sort
12 of an implicit comparison there to something, but
13 you haven't identified what that is. So too
14 focused as compared to what?

15 Q. Is it your opinion that the Cooper plans
16 are inappropriately focused on race?

17 A. I think that there is -- yeah, there's a
18 real focus on race. In some cases you could say
19 that it's inappropriate.

20 But you know, I don't know that I can say
21 that it's categorically across the board
22 inappropriate. But I have many instances where I
23 discern a focus on race.

24 Q. What evidence did you rely on to reach the
25 conclusion that the Cooper maps are focused on

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1 A. No.

2 Q. -- or did you just analyze the B.E.F.s?

3 A. I looked at the report a little bit, but
4 mostly I analyzed the block assignment files.

5 Q. Would you say you read the whole report?

6 A. Probably. I skimmed it. I didn't read it
7 in great detail.

8 Q. So your opinions about the Cooper plan
9 were developed without really considering Cooper's
10 report and his description of how he drew the
11 plans?

12 A. I didn't rely on that for this report.

13 Q. Did you consider it?

14 A. I may have considered portions of it, yes.

15 Q. Okay. Did you disagree with anything in
16 the Cooper report?

17 A. I don't recall right here right now. I
18 mean, if we want, we can look at it, but I don't
19 have a specific disagreement. I have opinions
20 based on the plan that I analyzed.

21 Q. And your opinions are based on analyzing
22 the B.E.F.s of the plan?

23 A. Generally, yes.

24 Q. Okay. You also say that you did some
25 analysis of prior plans submitted by Mr. Cooper

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1 A. Well, that's what I'm saying. I think I
2 just need to see if it's in the appendices or not,
3 if I could.

4 Q. That's okay.

5 A. Okay.

6 Q. You don't list core constituency
7 comparison to the benchmarks in this list of seven,
8 do you?

9 A. Yeah. That's right. But I'm trying to
10 say that it might have been run. Because I had the
11 prior plans, and it's something that could have
12 been done.

13 Q. Okay.

14 A. So that's why I'm saying I'm not sure if
15 it's in the appendices. And if I can look, I can
16 check that.

17 Q. So when comparing Cooper's maps to the
18 enacted maps, did you consider the redistricting
19 principles set out by the State of Georgia that we
20 previously talked about that have been marked as
21 Exhibit 2 --

22 MR. ZABEL: Three.

23 BY MR. SAVITZKY:

24 Q. -- 3? Did you consider those?

25 A. It's not in the report.

1 aligns more closely with the enacted senate plan
2 than the Cooper PI-2 plan.

3 A. Yes. But I didn't say anything as to how
4 it aligns with the enacted plan.

5 Q. Just looking at your chart two, would you
6 agree the Cooper senate plan is the same or better
7 than the enacted plan on all of the metrics that
8 you identify?

9 MR. TYSON: Object to form.

10 THE WITNESS: I, again, I don't quite
11 understand. I show the information and
12 the comparisons we just went over in
13 detail.

14 BY MR. SAVITZKY:

15 Q. Are there any metrics that you look at
16 here where the Cooper plan doesn't perform as well
17 as the illustrative plan --

18 A. I --

19 Q. -- or the, as the enacted plan?

20 A. Yes. There are the voting precinct
21 splits -- sorry, the compactness is better. Yeah,
22 no, I'd say -- we talked about the deviation. It
23 looks like they're all very similar.

24 And some numbers are higher than the
25 enacted plan, and most numbers are higher for the

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1 compactness, lower for the splits, more for the
2 incumbents.

3 Q. Okay. And just to be clear for the
4 record, the Cooper plan is better on voting
5 district splits?

6 MR. TYSON: Object to form.

7 THE WITNESS: Again, the number is
8 higher on the enacted plan for splits and
9 lower on the Cooper plan for splits.

10 BY MR. SAVITZKY:

11 Q. Got it.

12 So let's -- just hold one second.

13 And you say that 21 of the 56 districts in
14 the Cooper plan are identical to the enacted map?

15 A. I believe that's correct.

16 Q. And you say on Paragraph 18, moving along
17 to Page 8:

18 [As read] "The Cooper 12/05
19 senate plan has 35 of 56 districts
20 drawn differently but still has mean
21 compacted scores close to the enacted
22 plan, with" mean compactness -- "with
23 the mean compactness score on Reock
24 higher and the mean compactness score
25 in Polsby lower."

1 But I think we already discussed you agree
2 those compactness scores are virtually identical?

3 A. Yes.

4 Q. Okay. Now, let's look at your regional
5 analysis starting at Paragraph 19. You did an
6 analysis of the metro region with respect to the
7 senate map, and you focus on a cluster of four
8 senate districts that you selected.

9 Is that -- do I have that right?

10 A. Yes. They're senate districts in the same
11 area, same region.

12 Q. Uh-huh. And just looking at Page 10 of
13 your report, can you confirm that the map on Page
14 10 is supposed to depict districts from the enacted
15 map?

16 A. Just a moment.

17 Q. And not to hide the ball, but I just --
18 because it says Cooper on top, but I'm pretty sure
19 that --

20 A. Does it say it on both?

21 Q. It says it on both.

22 A. Okay.

23 Q. And I think this is the enacted side --

24 MR. TYSON: Yeah, the --

25 BY MR. SAVITZKY:

1 the appendix to the report, so it's possible to
2 look at any district you want to make a comparison
3 to. But I chose this district because it does show
4 differences. And I'm showing some differences in
5 the two plans.

6 Q. Right. I mean, you conducted a cluster
7 analysis examining the compactness of these
8 particular districts, which you didn't do for
9 other -- any other set of districts in the metro
10 area?

11 A. In the metro area? I don't think so. I
12 mean, I talked about -- I think I talked about
13 another district in the metro area. Yeah, I talked
14 about Spalding a little bit.

15 Q. Did you run any analysis to determine how
16 much these groups of four districts overlap in a
17 core constituency analysis between the two?

18 A. Well, I mean, the core constituency
19 analyses are included as an appendix in the report,
20 so that information is available. But I didn't
21 highlight it or discuss it in the verbal part of
22 the report.

23 Q. Do you know how much this set of districts
24 overlaps?

25 A. No. I didn't look at that specifically.

1 Again, I was picking these counties and looking at
2 districts that are generally in that area.

3 Q. And when you look at these maps, we can
4 only see the district lines for the set of four
5 districts that you selected?

6 A. In this map, that's correct. However, in
7 the appendix, there are additional single districts
8 that we could look at.

9 Q. When we look at these maps, we can't see
10 whether the lines of the surrounding districts are
11 more or less compact or split more or fewer
12 counties in one map or the other?

13 A. There are four districts on this map in
14 the enacted and the Cooper plan.

15 Q. Yeah. So you're -- in this analysis, you
16 can only see the districts that you selected?

17 A. Yes.

18 Q. So let's turn to some of the districts
19 that you selected. On the enacted map you've got
20 enacted District 10 you describe in Paragraph 21.
21 You say it's a 71.5 percent B.V.A.P. district. And
22 you say it stretches for 25 miles across from
23 DeKalb, Henry County to the Spalding County line.

24 How do you measure those distances, by the
25 way? How did you do that?

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1 specifically, it is being elongated to get lower
2 concentrations of black population in Spalding
3 County into District 16 in the Cooper plan.

4 Q. But other districts are less elongated
5 in -- among the four that you've chosen?

6 A. Some are, some aren't.

7 Q. Do you ever conclude in your report that
8 Cooper's districts in this area do not comport with
9 traditional districting principles?

10 A. I don't know that I explicitly said that
11 in this area of the report.

12 Q. Is that your opinion?

13 A. I said in my opinion that there was a
14 focus on race to the detriment of these other
15 redistricting factors.

16 Q. But you're not saying that the plans are
17 inconsistent with traditional districting
18 principles?

19 A. I didn't say that. I don't think I said
20 that anywhere in the report. I said that it -- I
21 said what I said in the concluding statement, and
22 in Paragraph 6, that it's focused on race to the
23 detriment of those factors.

24 Q. So you're not concluding that the
25 illustrative plans do not comport with traditional

1 does better on minimum compactness?

2 A. I would assume it's Cooper.

3 Q. It is, but I'd for the record like you to
4 verify that.

5 A. Okay. For the record, let's see, the
6 illustrative house plan has a low of point 16 on
7 Reock and point 11 on Polsby-Popper. Cooper is --
8 sorry. That's Cooper.

9 Cooper plan is point 16 Reock, point 11
10 Polsby-Popper. The enacted is point 12 Reock and
11 point 10 Polsby-Popper.

12 Q. So Cooper's plans, Cooper's house plan is
13 more compact when looking at the minimum
14 compactness measure?

15 A. Yes.

16 Q. Okay. So regarding number of paired
17 incumbents, we have 25 in the Cooper illustrative,
18 20 in the enacted?

19 A. Yes.

20 Q. And deviation ranges are similar; would
21 you say that's correct?

22 A. The Cooper plan has a higher deviation
23 range.

24 Q. But it's within that 1.5 percent number
25 that you chose for your 12/05 plan?

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1 A. Yes.

2 Q. Okay. So would you say that's sufficient
3 to comport with traditional districting principles,
4 being in that plus or minus 1.5 percent deviation
5 range?

6 A. Generally.

7 MR. TYSON: Object to form.

8 THE WITNESS: Sorry.

9 MR. TYSON: Sorry.

10 THE WITNESS: Okay. I answered most
11 of it. I would say that let me clarify my
12 answer here. It is the same deviation
13 range that I used in my illustrative plan.
14 In my experience, I have seen plans that
15 have this range of deviation before.

16 BY MR. SAVITZKY:

17 Q. By the way, sometimes deviation can be
18 higher than that, right, 5 percent?

19 A. It really depends where you are. Not in
20 Nevada.

21 Q. We are not in Nevada.

22 A. No.

23 Q. So did you look at any other metrics other
24 than these?

25 A. The top line metrics? No. But I have all

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1 Q. So substantially the same compactness?

2 A. Okay.

3 Q. Would you agree with that?

4 A. It's, yes, it's close.

5 Q. And then for District 133, it looks like
6 the enacted plan District 133 is more compact.
7 That district is a different, a very -- a different
8 area from the illustrative map, isn't it?

9 A. Probably.

10 Q. Do you know what the overlap of those two
11 districts is?

12 A. No. I don't have it in front of me.

13 Q. Okay.

14 MR. SAVITZKY: Is this the -- that's
15 fine. We don't need to...

16 BY MR. SAVITZKY:

17 Q. Would you say that it makes sense to do a
18 comparison of two districts where there's only
19 40 percent overlap between the populations at deal?

20 A. It can. It depends on what the
21 circumstances are. For example, when you were
22 talking about Senate District 55, what district to
23 compare that to, well, the -- that same area in my
24 illustrative 55 was fractionalized in the enacted
25 plan. So which one do you compare it to?

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1 I don't know what the highest percentage
2 is in that area.

3 Q. And you didn't look at the core
4 constituency report -- core constituency, excuse
5 me, report to try to figure out what the best
6 comparator would be?

7 A. I didn't. And more to the point, in this
8 case when you say is 40 percent a good number, I
9 don't know. It really depends on what the other
10 options are.

11 Q. Is it possible that you could have a
12 situation where the districts are so different that
13 there isn't really a good comparator?

14 A. Sometimes, sure.

15 Q. Looking at District 145, the enacted plan
16 is a little better on Reock and the Cooper plan is
17 better on Polsby-Popper; is that right?

18 A. Yes.

19 Q. Okay. And looking at 171, it's a little
20 bit more compact under the enacted plan?

21 A. It's point 35 Reock in the enacted and
22 point 28 in the Cooper for Reock. And
23 Polsby-Popper is point 37 in the enacted and point
24 two in the Cooper plan.

25 Q. And did you look at the overlap between

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1 P.I. plans and this, so I included the same
2 information.

3 Q. Okay.

4 A. But all of the compactness scores are in
5 the reports.

6 Q. So let's turn to Paragraph 48 and some of
7 these maps. You look at metro area house
8 districts. You look at a map shown which is called
9 a metro region.

10 And you have some maps on Pages 27, 29 and
11 30 of your report with V.T.D.s shaded by B.V.A.P.;
12 is that right?

13 A. In general, yes.

14 Q. All right. You say:

15 [As read] "Looking at the
16 specific districts will show the
17 compactness of the districts as
18 impacted by the efforts to create more
19 black majority districts."

20 When you say "impacted," what do you mean?

21 A. Where is that in the report?

22 Q. In Paragraph 50. I'm sorry. You say:

23 "...the compactness of the
24 districts is impacted by the efforts
25 to create more majority black

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1 mean compactness would have changed?

2 A. I don't know. I assume so. We discussed
3 this earlier. It's possible and likely that it
4 would change, but I don't know how it would change.

5 Q. So if you did a different analysis, the
6 mean compactness for Cooper's districts could be
7 better and the mean compactness for the enacted
8 could be worse?

9 A. I have no idea. This is the analysis that
10 I provided in the report.

11 Q. Based on the districts that you chose?

12 A. Yes. That are in the same geographic
13 area.

14 Q. Along with other districts that are also
15 in that area that you didn't choose?

16 A. I chose these districts, and I discuss
17 them in some detail in the report.

18 Q. And when you picked these districts, did
19 you run a core constituencies analysis to determine
20 how much they overlapped between the illustrative
21 and the...

22 A. It's available in the appendices. It's
23 not in the text portion of the report.

24 Q. Do you know how much of enacted District
25 77 actually overlaps with District 77 in the Cooper

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1 map?

2 A. Probably not very much. It doesn't look
3 like very much overlaps.

4 Q. But you decided to do a head to head on
5 them anyway?

6 A. I wouldn't describe it as a head to head.
7 In some extent that's why I picked this grouping of
8 four, because it's in the same general region.

9 So even though 77 may not have exactly the
10 same, and certainly not exactly the same, but a lot
11 of the same territory, as a group they cover a lot
12 of the same territory.

13 Q. So just looking at Paragraphs 51 and 52 of
14 your report, you've got one district in north
15 Clayton, one in Fulton and Fayette, one in Fayette
16 and Coweta, one in Fayette and Spalding and Henry
17 for the enacted plan.

18 Does that sound about right?

19 A. Yeah. That's what it shows.

20 Q. And then just turning to Paragraph 53,
21 which is still on this page, you say:

22 [As read] "In the Cooper 12/05
23 plan, the engineering of a new black
24 majority district is accomplished by
25 elongating the districts to connect

1 I believe.

2 Q. So whichever part of a split in Spalding
3 County has Griffin is going to have most of the
4 black population?

5 A. Probably.

6 Q. And you didn't consider that in assessing
7 whether the county split that Mr. Cooper draw -- or
8 drew was appropriate?

9 A. I reported on what I saw, and I drew some
10 conclusions from it.

11 Q. So let's look at Paragraph 58 and turn to
12 the discussion of the black belt sort of area. You
13 sort of pick out ten districts in this region to
14 examine.

15 Why did you pick these districts?

16 A. They cover roughly the same area. And I
17 think in particular I have a discussion of county
18 splits with regard to District 128 in Cooper's
19 plan.

20 Q. Did you run the core constituencies
21 analysis to determine how much of the area in your
22 region and the area in the illustrative overlapped?

23 A. I didn't run a core constituency. The --
24 those numbers are in the appendix.

25 Q. Did you conduct any compactness analysis

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1 of the districts in this area?

2 A. That's in the reports. It's all there.

3 Q. But you're not contending that the com --
4 that there's some -- that the districts in the
5 Cooper map are less compact or there's some
6 detriment to compactness?

7 A. I think there is, I mean, specifically
8 with 128.

9 Q. Well, specifically with 128 --

10 A. Compared to, say, District 155 in the
11 enacted plan.

12 Q. I mean, do you discuss the compactness
13 scores of the districts in this area at all in your
14 report?

15 A. I don't think so. I think I'm looking at
16 a different aspect here regarding the county
17 splits.

18 Q. Okay. You say that District 33 -- 133 has
19 a number of V.T.D. splits in Baldwin County?

20 A. Yes.

21 Q. That's on Paragraph 61.

22 A. Yes.

23 Q. Is that due to the shape of Milledgeville
24 and the V.T.D.s around Milledgeville?

25 A. No.